



**City of Kingston
Report to Committee of Adjustment
Report Number COA-20-030**

To: Chair and Members of Committee of Adjustment
From: Lindsay Sthamann, Planner
Date of Meeting: April 20, 2020
Application for: Minor Variance
File Number: D13-006-2020
Address: 1469 Princess Street
Owner: 1652557 Ontario Inc
Applicant: Robert Paz

Council Strategic Plan Alignment:

Theme: 4. Strengthen economic development opportunities

Goal: 4.1 Support new and existing businesses

The proposed variance would allow additional office space to be leased in an existing commercial building.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 1469 Princess Street. The applicant is proposing to increase the maximum permitted office size per building from 605 metres square to 1822 square metres. This is to recognize the existing 1300 square metres of office space and allow the remaining 521 square metres to be rented as office space if there is a market demand for it.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

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Recommendation:

That minor variance application, File Number D13-006-2020, for the property located at 1469 Princess Street to increase the maximum permitted office size per building from 605 square metres to 1822 square metres, be approved.

Variance Number 1:

By-Law Number 8499: Section 22.2(i)
Requirement: offices permitted with a maximum size of 605.0 square metres per building
Proposed: offices permitted with a maximum size of 1822.0 square metres per building
Variance Requested: 1217.0 square metres more office space per building

Approval of the foregoing variance shall be subject to the following conditions:**1. Limitation**

That the approved variance(s) applies only to the existing commercial plaza as shown on the approved drawings attached to the notice of decision.

2. No Adverse Impacts

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

3. Building Permit Application Requirements

The owner/applicant shall provide to the Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, if they make an application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

4. Standard Archaeological Condition

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

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In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

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Authorizing Signatures:

Lindsay Sthamann, Planner

In Consultation with the following Management of the Community Services Group:

Paige Agnew, Commissioner of Community Services

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Options/Discussion:

On February 20, 2020, a minor variance application was submitted by Robert Paz, on behalf of the owner, 1652557 Ontario Inc, with respect to the property located at 1469 Princess Street. The variance is requested to increase the maximum permitted office size per building from 605 square metres to 1822 square metres. This is to recognize the existing 1300 square metres of office space and allow the remaining 521 square metres to be rented as office space if there is a market demand for it. There are no external changes to the existing building or site proposed through this application. This application seeks to support flexibility in future tenants.

The property is subject to an existing Site Plan Control agreement. If significant changes are proposed to the exterior of the building, grading, landscaping, or parking arrangement a site plan modification application will be required.

The parcel is currently developed with a single-storey commercial plaza with a total gross floor area of 1,822 square metres. The existing building accommodates seven individual commercial units, all of which maintain exterior access to the parking area at the front of the building. The requested variance seeks to permit the entire existing building on the subject property to be utilized for office uses.

In support of the application, the applicant has submitted the following:

- Site Plan (Exhibit G)
- Floor Plan (Exhibit H)
- Planning Justification Letter (Exhibit I)
- Supplementary Planning Justification (Exhibit J)

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

Site Characteristics

The subject property is located northwest of the Princess Street and Parkway Avenue intersection. The parcel has road frontage on both Princess Street and Parkway Avenue, with vehicular access from both municipal streets. Directly west of the subject property is the Little Cataraqui Creek. The property has a lot area of approximately 6546 square metres. The property is currently developed with a one-storey commercial plaza.

The subject property is designated 'Arterial Commercial' and 'Environmental Protection Area' in the Official Plan and zoned C2.383 in Zoning By-Law Number 8499. The property abuts property zoned EPA to the North, multiple-family residential across Princess Street and commercial uses across Parkway Avenue.

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Application

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

Provincial Policy Statement

In addition to the four tests of a minor variance detailed below, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

1) The general intent and purpose of the Official Plan are maintained

The subject property is designated 'Arterial Commercial' and 'Environmental Protection Area' in the City of Kingston Official Plan.

According to Section 3.10 of the Plan, 'Environmental Protection Areas' recognize lands that have inherent environmental sensitivity. These lands are to be maintained in their natural, undisturbed state and the permitted uses are limited to those related to open space, conservation or flood protection. Section 3.10.2.1 notes that lands that are designated 'Environmental Protection Area' which are solely tied to riparian corridors as illustrated on Schedule 7 of the Plan, permitted uses on such lots include (Section 3.10.2.1(a)): the permitted land uses of another land use designation applicable to the lot. Therefore, the policies of Section 3.4.E, Arterial Commercial are applicable to the subject property.

The 'Arterial Commercial' designation is a special purpose designation for a limited range of goods and services, such as hospitality uses, automotive uses, restaurants to serve the travelling public, or uses that require large sites on a major road to display specialized goods in an outdoor setting. Section 3.4.E.1 of the Plan details permitted uses to include a range of services that cater to the travelling public, uses that require large sites, or which require outdoor display such as vehicle sales lots or vehicle rental premises, hospitality uses and automotive uses such as gas bars and service stations. Limited convenience commercial goods and services may also be permitted with the size and type of use regulated in the zoning by-law, as well as offices uses permitted as an accessory use only.

Section 3.4.E.3 of the Plan states: "The City contains a number of older strip plazas that have developed along arterial roads that are major arteries into the City. These sites, designated Arterial Commercial, contain a mix of retail, office and service uses in addition to the uses currently permitted in the Arterial Commercial designation. The implementing zoning by-law for those sites may recognize the existing wider range of uses".

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The subject property was constructed in approximately 1986, which was prior to the adoption of the current City of Kingston Official Plan. Section 3.4.E.3 recognizes this as an existing older strip plaza. This policy permits a mix of retail, office, and service uses in the existing strip plazas with no limitation on the amount of office space. The proposed variance will not restrict future retail or service uses from locating in the plaza.

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

1. The proposed *development* meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;

According to Section 2 and Schedule 2 of the Official Plan, the subject property is located within a Centre & Corridor. Section 2.2.7 of the Plan states that these areas of the City are those of mixed use and mixed buildings, including employment, residential, commercial and supporting uses and facilities. The application represents minor commercial development that is compatible with the existing built form and the site's location on an Arterial Road.

2. The proposed *development* will be *compatible* with surrounding uses, buildings or structures and *development* standards associated with adjacent properties, and if necessary, incorporate means of alleviating *adverse effects* on abutting land uses as recommended in Section 2.7 of this Plan;

There are no exterior changes to the existing strip plaza building proposed. As such, no adverse impacts on neighbouring properties related to shadowing, wind, loss of privacy, or visual intrusion are anticipated. The property fronts on an Arterial Road which is well-served by transit, and is designed to serve relatively high volumes of traffic. Vehicle parking is contained to the site, and no additional access routes from Princess Street are proposed. The property is not in an area with any nearby identified cultural heritage resources. Increasing the total gross floor area of office space on-site is not anticipated to adversely affect the adjacent properties.

3. The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;

The commercial plaza has ample parking. The additional office space will not result in any new performance standards and will be compatible with the surrounding land uses and existing commercial uses on the site. The site specific zone, C2.383, requires a minimum of 84 off-street parking spaces for the plaza.

The subject property currently accommodates approximately 104 on-site parking spaces. The site also accommodates a rear access lane that supports loading and unloading areas for each commercial unit. Through this application, the owners are not proposing any external changes to the site.

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4. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a *built heritage resource* or is within a Heritage District;

The site is not within a heritage conservation district, is not a designated heritage property, and is not adjacent to any identified heritage resources. The proposed variance will not require any changes to the exterior of the existing building on the site.

5. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a heritage impact statement may be required to assist staff to determine if the resulting *development* is desirable;

The property is not designated under the Ontario Heritage Act, nor is it adjacent to any heritage properties. The site is not within a heritage character area. A Heritage Impact Statement is not required.

6. The resulting *development* has adequate *municipal water and sewage services* within the *Urban Boundary*, or is capable of providing *individual on-site water and sewage services* outside the *Urban Boundary*;

The property is within the Urban Boundary as shown on Schedule 2 of the Official Plan. The site is on full existing municipal services.

7. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;

The proposed use is supported by the Arterial Commercial land use designation. The requested relief on maximum office space per building is considered minor in nature. A zoning by-law amendment is not required.

8. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application;

A number of conditions are being recommended as part of the approval, as found in this report.

9. The degree to which such approval may set an undesirable precedent for the immediate area.

It is not anticipated that an undesirable precedent will be set based on the approval of the requested variance.

The proposal meets the intent of the Official Plan, as the proposed increased office uses will not result in any negative impacts to adjacent properties or to the neighbourhood.

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2) The general intent and purpose of the zoning by-law are maintained

The subject property is zoned C2.383 in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended. The C2.383 zone permits offices with a maximum size of 605.0 square metres per building. All other existing uses (retail stores, commercial schools, and shopping centres) are permitted in the C2.383 zone.

The proposal requires a variance to Section 22.2(i)

Variance Number 1:**By-Law Number: 8499** 22.1(i)**Requirement:** offices permitted with a maximum size of 605.0 square metres per building**Proposed:** offices permitted with a maximum size of 1822.0 square metres per building**Variance Requested:** 1217.0 square metres more office space per building

The table below includes a breakdown of the seven existing commercial units including unit size, current tenant, and the use as per the Zoning By-law:

Unit	Tenant	Zoning By-Law Use	Size
Unit 1A	Creekside Dental	Office	207 metres square
Unit 1B	Victorian Order of Nurses	Office	276 metre square
Unit 2	Parkway Grocery	Retail Store	140 metre square
Unit 3	Victorian Order of Nurses	Office	117 metre square
Unit 4	Active Orthopedic	Office	357 metre square
Unit 5	Academy of Learning	Commercial School	381 metre square
Unit 6	Physiotherapy Kingston	Office	344 metre square

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The variance will legalize the existing office space (1301 metre square) and allow the other two units to also be leased as office space if desired. The property will still be considered a shopping centre as per By-Law Number 8499. The existing plaza with seven commercial units is considered a permitted use, however the occupancy of each commercial unit is reliant on the occupant(s) of the other commercial units. A shopping centre means a group of commercial establishments which are planned, designed and developed as an entity and having an off-street parking area provided on the site. The parking requirements are not changes as part of this minor variance.

The restriction on office size was intended to direct large offices towards the downtown core. Each unit on this property would actually be permitted to be an office if the units were separate buildings and not connected by common walls. As such, this variance maintains the general intent and purpose of the zoning by-law as no individual office will be larger than 605 metres square.

3) The variance is minor in nature

The variance is considered minor as the proposed office use is currently permitted on the subject property to a maximum of 605 square metres per building. As the site currently accommodates a plaza, the single building is limited to housing a total of 605 square metres of office floor area. This application seeks to amend the maximum permitted office uses on-site to ensure that flexibility exists in securing future tenants. The proposal will result in a development that is consistent with the existing uses on the subject property. No negative impacts on the neighbouring properties are anticipated as part of this variance application.

4) The variance is desirable for the appropriate development or use of the land, building or structure

The proposed increase in total gross floor area of office space on the subject property will have negligible impact on adjacent properties. Further, the proposal will not visually change the sites appearance from either Princess Street or Parkway Avenue. The proposal does not seek to change the scale, massing or built form of the existing development. The proposal is limited to providing variation in future tenants of the existing commercial plaza.

The variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Services) |
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input checked="" type="checkbox"/> City’s Environment Division |
| <input checked="" type="checkbox"/> Solid Waste | <input checked="" type="checkbox"/> Parks Development | <input type="checkbox"/> Canadian National Railways |
| <input checked="" type="checkbox"/> Housing | <input checked="" type="checkbox"/> District Councillor | <input type="checkbox"/> Ministry of Transportation |
| <input type="checkbox"/> KEDCO | <input type="checkbox"/> Municipal Drainage | <input type="checkbox"/> Parks of the St. Lawrence |
| <input checked="" type="checkbox"/> CRCA | <input type="checkbox"/> KFL&A Health Unit | <input type="checkbox"/> Trans Northern Pipelines |

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- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Services) |
| <input type="checkbox"/> Parks Canada | <input type="checkbox"/> Eastern Ontario Power | <input type="checkbox"/> CFB Kingston |
| <input type="checkbox"/> Hydro One | <input type="checkbox"/> Enbridge Pipelines | <input type="checkbox"/> TransCanada Pipelines |
| <input type="checkbox"/> Kingston Airport | | |

Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

Public Comments

At the time this report was finalized, no public comments related to the application were received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

Previous or Concurrent Applications

There are no concurrent or relevant historic planning applications on the subject property.

Conclusion

The requested variance(s) maintain(s) the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance(s) **is** minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will permit up to 1822 square metres of office space in the existing plaza building.

Existing Policy/By-Law:

The proposed application was reviewed against the policies of the Province of Ontario and City of Kingston to ensure that the changes would be consistent with the Province's and the City's vision of development. The following documents were assessed:

Provincial

Provincial Policy Statement, 2014

Municipal

City of Kingston Official Plan
Zoning By-Law Number 8499

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Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on April 20, 2020. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the form of a notice placed in The Kingston Whig-Standard on Friday, March 3rd. Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

Tim Park, Manager of Development Approvals 613-546-4291 extension 3223

Lindsay Sthamann, Planner 613-564-4291 extension 3287

Other City of Kingston Staff Consulted:

The application was circulated to the relevant internal departments and external agencies for review and comment. The responses to the technical circulation have been addressed in the technical review and included in this report.

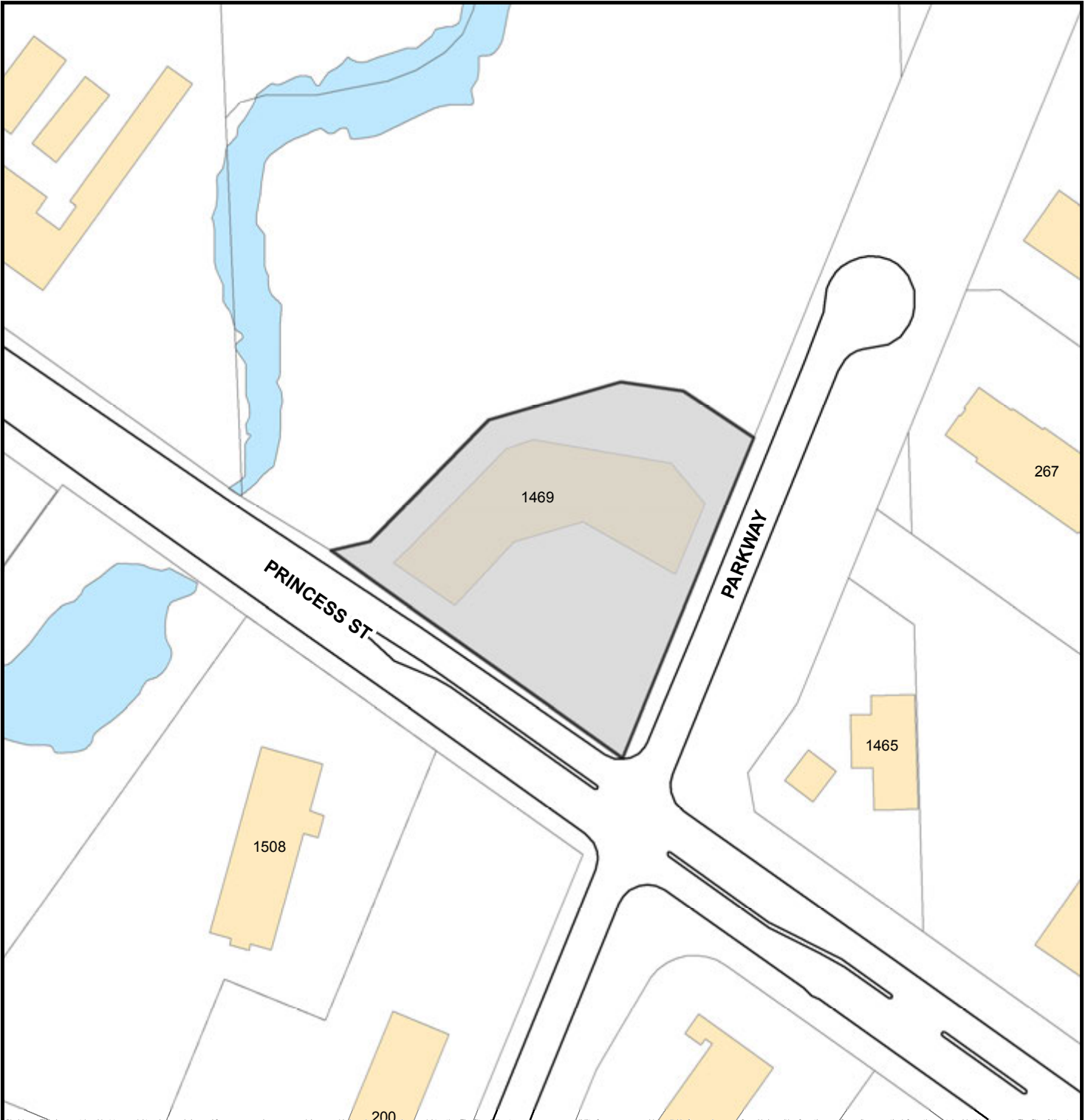
Exhibits Attached:

- Exhibit A Key Map
- Exhibit B Public Notice Notification Map
- Exhibit C Official Plan Map
- Exhibit D Zoning By-Law Map
- Exhibit E Neighbourhood Context Map
- Exhibit F Site Photos
- Exhibit G Site Plan
- Exhibit H Floor Plan
- Exhibit I Planning Justification Letter

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Exhibit J Supplementary Planning Justification

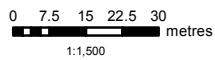


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COMMITTEE OF ADJUSTMENT
Key Map

File Number: D13-006-2020
Address: 1469 Princess Street



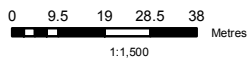
DATE: 2020-02-26
PREPARED BY: Ichu

Lands Subject to Minor Variance



COMMITTEE OF ADJUSTMENT
Public Notice Notification Map

File Number: D13-006-2020
Address: 1469 Princess Street



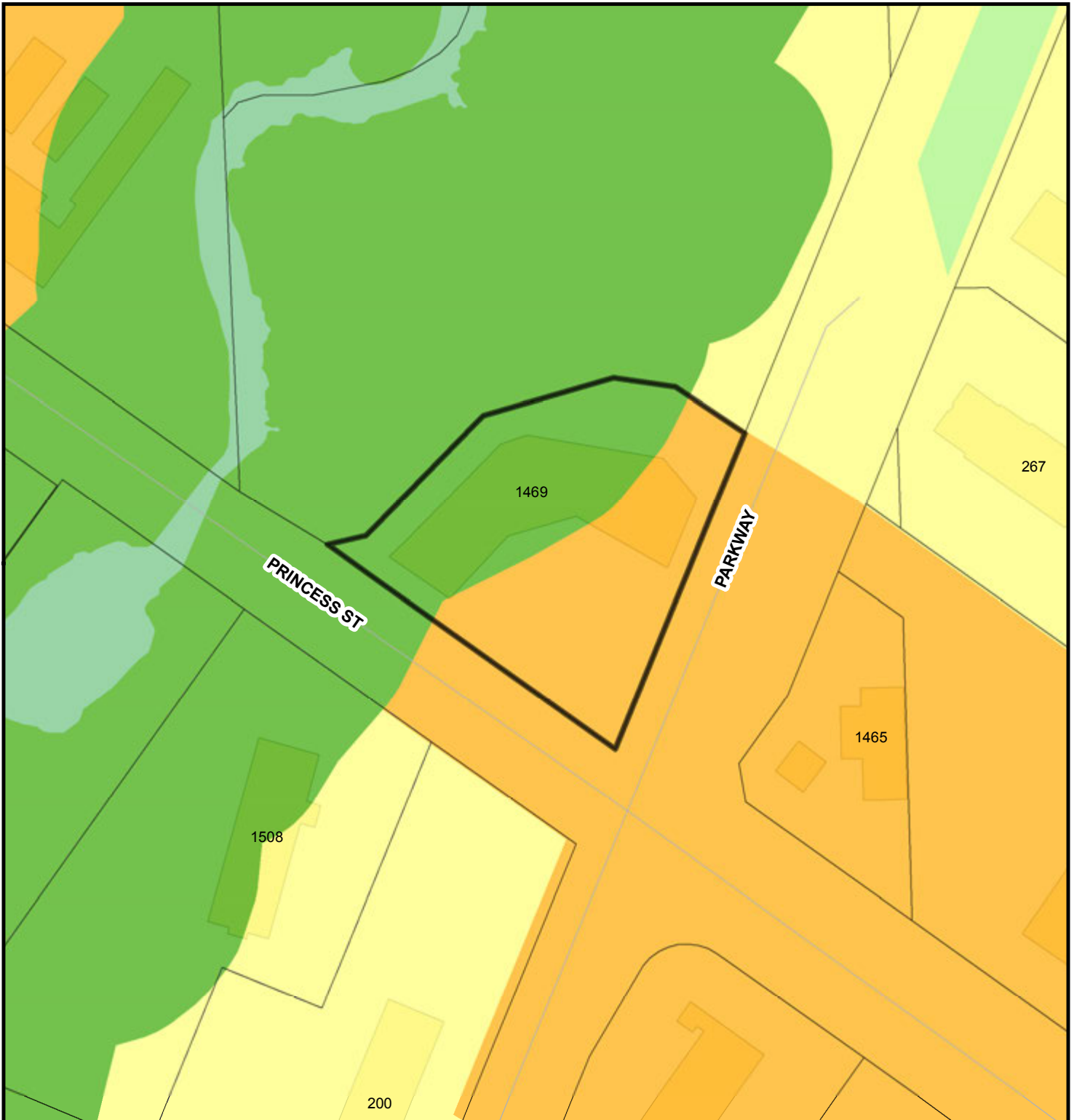
Legend

- 60m Public Notification Boundary
- Subject Lands
- Property Boundaries
- Proposed Parcels
- 9 Properties in Receipt of Notice (MPAC)



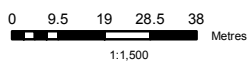
PREPARED BY: lchu
DATE: 2020-02-26

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COMMITTEE OF ADJUSTMENT
Official Plan, Existing Land Use

File Number: D13-006-2020
Address: 1469 Princess Street



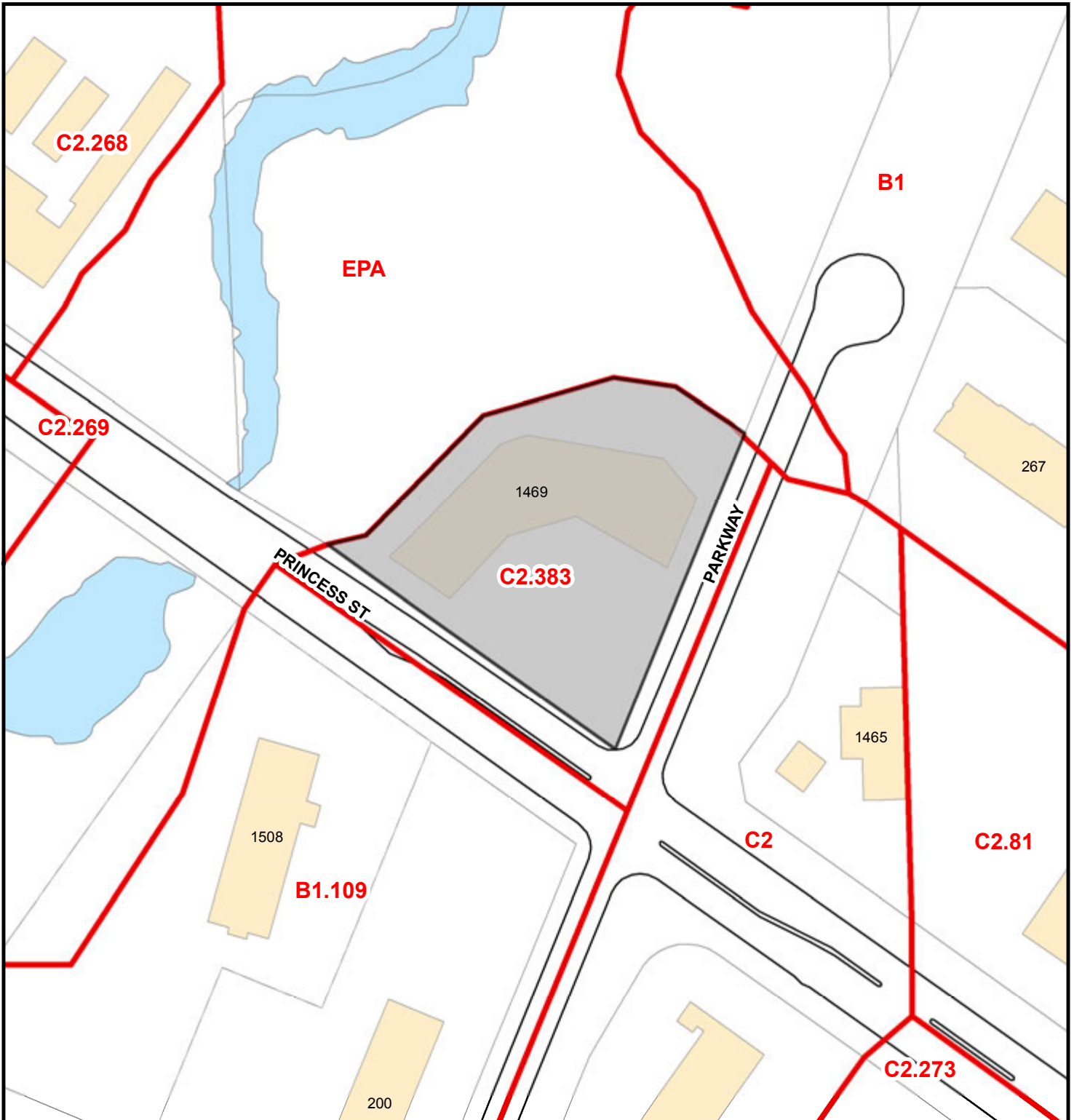
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- Subject Lands
- ARTERIAL COMMERCIAL
- ENVIRONMENTAL PROTECTION AREA
- OPEN SPACE
- RESIDENTIAL



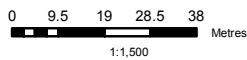
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COMMITTEE OF ADJUSTMENT
Existing Zoning - By-law 8499, Map 11

File Number: D13-006-2020
Address: 1469 Princess Street



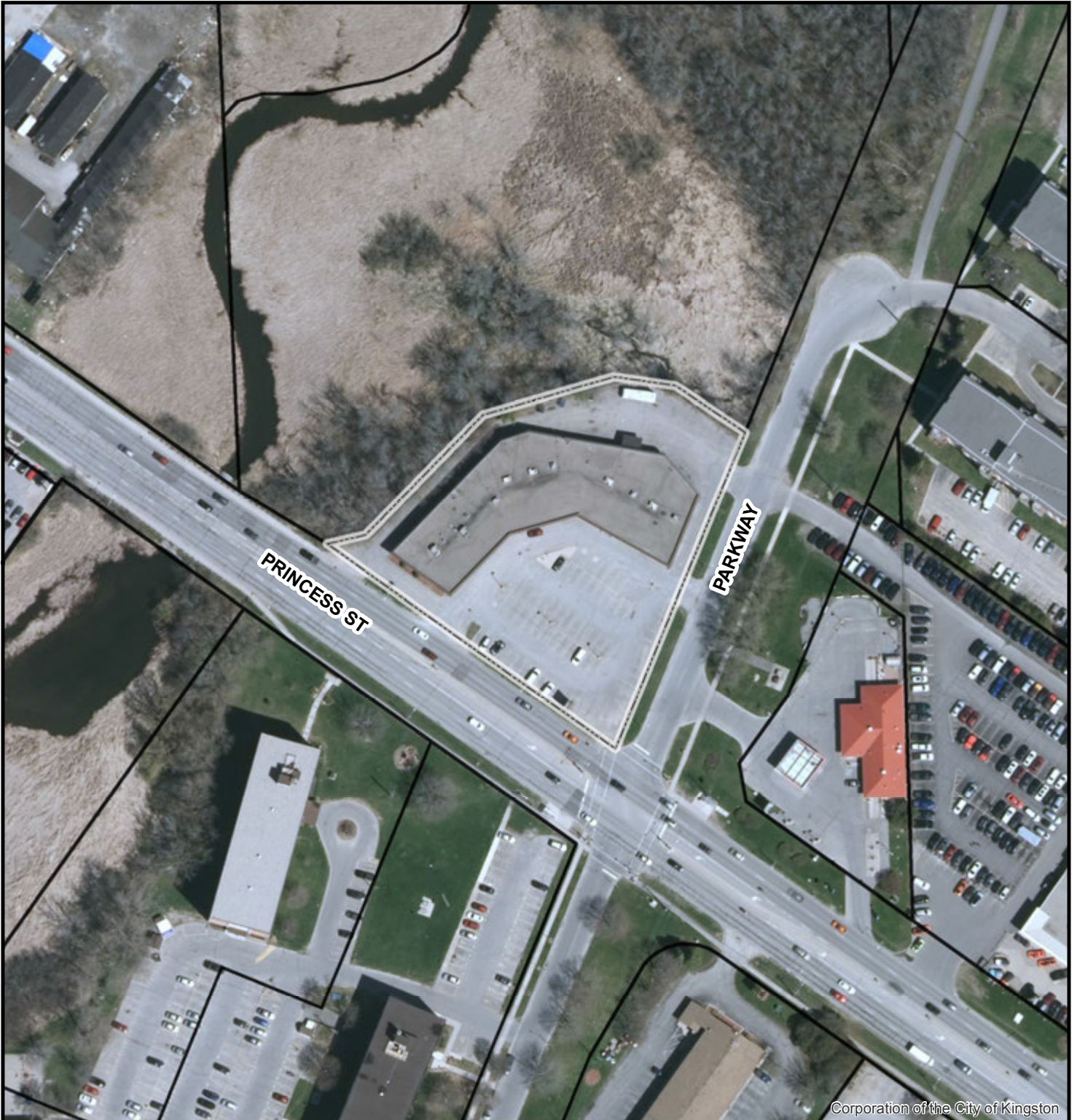
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-  Subject Lands
-  Consolidated Zoning



PREPARED BY: Ichu
DATE: 2020-02-26

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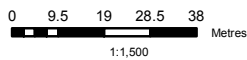
Corporation of the City of Kingston



Planning Services
a department of
Community
Services

COMMITTEE OF ADJUSTMENT
Neighbourhood Context (2018)

File Number: D13-006-2020
Address: 1469 Princess Street



Legend

- Subject Lands
- Property Boundaries
- Proposed Parcels

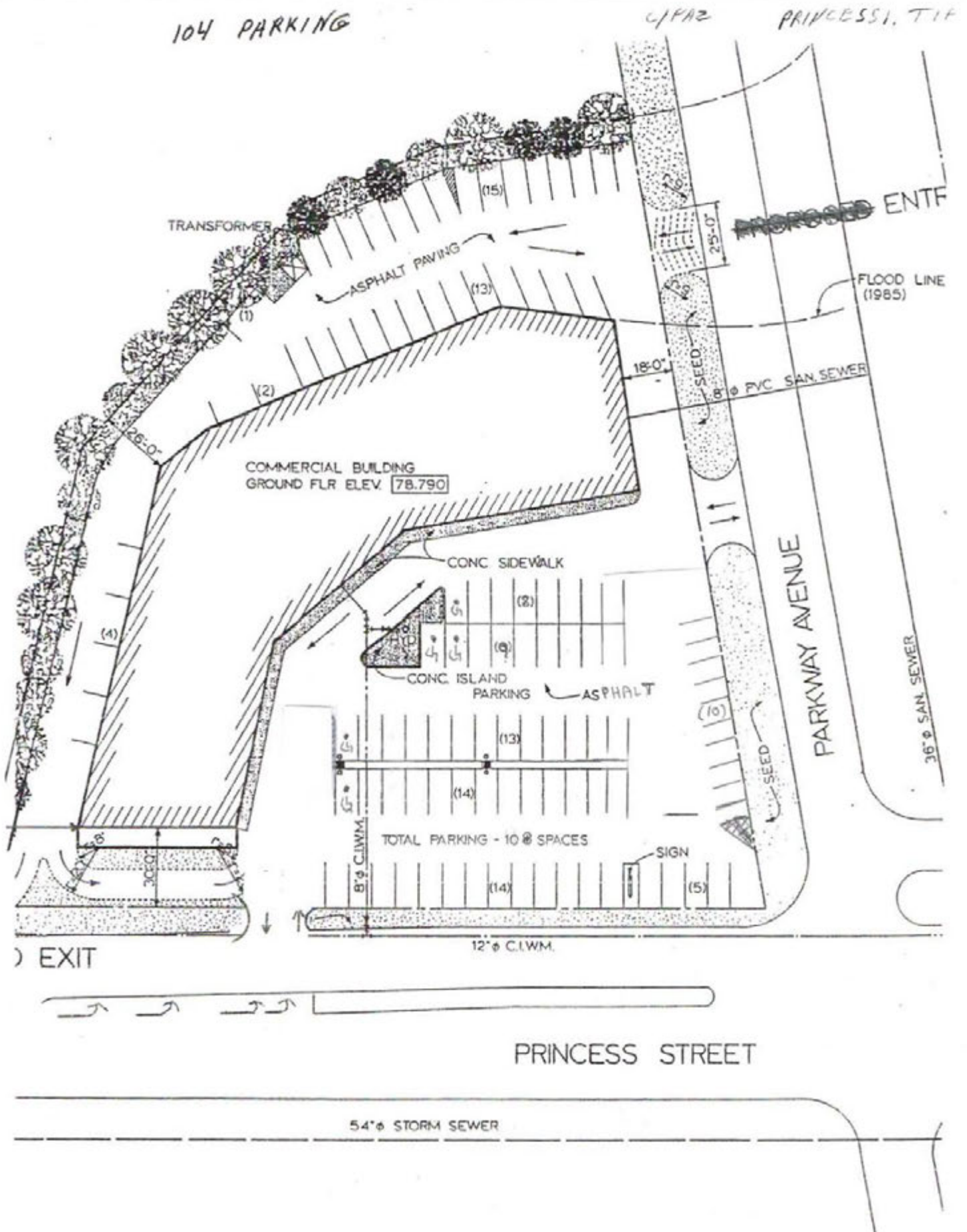


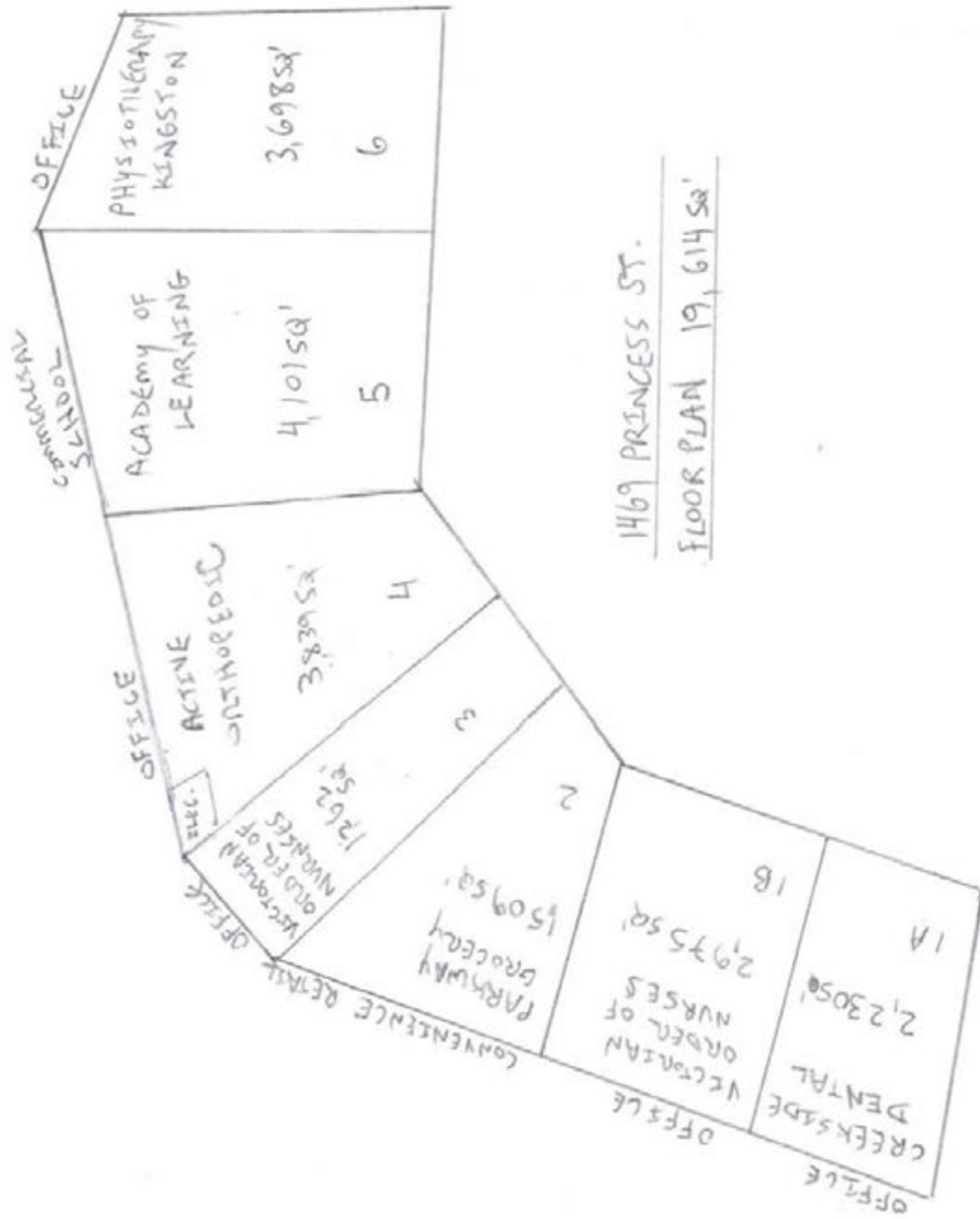
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Site Photos (Google Street View - July 2019)







1469 Princess Street

Application for Minor Variance – Planning Justification

D13-006-2020

February 19, 2020

Overview

The property known municipally as 1469 Princess Street is located northwest of the Princess Street and Parkway Avenue intersection. The parcel has road frontage on both Princess Street and Parkway Avenue, with vehicular access from both municipal streets. Directly west of the subject property is the Little Cataraqui Creek. The parcel is currently developed with a single storey plaza with a total gross floor area of 19,614 square feet (1,822 square metres). The existing building accommodates seven individual commercial units, all of which maintain exterior access to the parking area at the front of the building. Further, a drive aisle is located to the rear of the building which facilitates on-site movement and functions as a discrete shipping & receiving / loading & unloading area.

Below is a breakdown of the commercial unit(s), current tenant and unit size:

Unit	Tenant	Size (sq ft)	Size (sqm)
Unit 1A	Creekside Dental	2,230 sq ft	207 sqm
Unit 1B	Victorian Order of Nurses	2,975 sq ft	276 sqm
Unit 2	Parkway Grocery	1,509 sq ft	140 sqm
Unit 3	Victorian Order of Nurses	1,262 sq ft	117 sqm
Unit 4	Active Orthopedic	3,839 sq ft	357 sqm
Unit 5	Academy of Learning	4,101 sq ft	381 sqm
Unit 6	Physiotherapy Kingston	3,698 sq ft	344 sqm
		19,614 sq ft	1,822 sqm

According to the City of Kingston Official Plan, the subject property is designated 'Arterial Commercial' and 'Environmental Protection Area'. The subject property is located within a site-specific Arterial Commercial 'C2.383' zone in Zoning By-law Number 8499, as amended.

Through this Minor Variance application, the owners are seeking permission to increase the current 605 square metre (6,512 square foot) office maximum to a maximum office square

footage of 19,614 square foot (1,822 square metres). There are no external changes to the existing building or site proposed through this application. This application seeks to support flexibility in future tenants.

A variance from Section 22.2(i) of Zoning By-law Number 8499, as amended is requested to increase the maximum floor area of 605 square metres used for offices per building to 1,822 square metres per building. Essentially, the requested variance seeks to permit the entirety of the existing building on the subject property to be utilized for office uses.

An application for minor variance is not a simple mathematical calculation, but rather a detailed assessment of whether the variance required meet the four tests of a minor variance as outlined in Subsection 45(1) of the *Planning Act*.

The general intent and purpose of the Official Plan are maintained

According to the City of Kingston Official Plan, the subject property is currently designated 'Arterial Commercial' and 'Environmental Protection Area'.

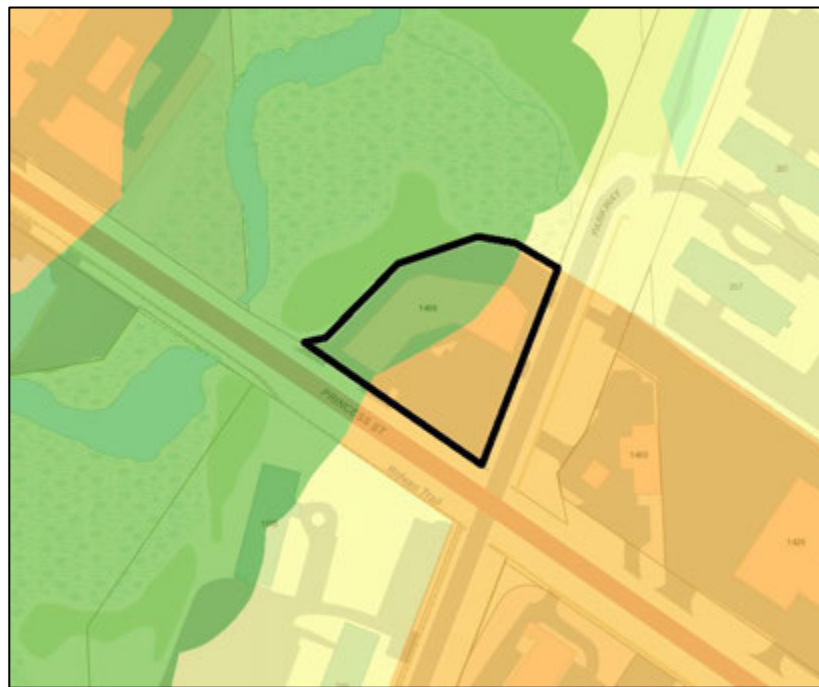


Fig. 1 – City of Kingston Official Plan Schedule 3-A.

The Plan provides direction related to minor variance applications through Section 9.5.19. Detailed below is a review of the applicable Official Plan policies when considered a minor variance:

1. The proposed development meets the intent of Section 2 – Strategic Policy Direction and all other applicable policies on the Plan.

According to Section 2 and Schedule 2 of the Official Plan, the subject property is located within a Centre & Corridor. Section 2.2.7 of the Plan states that these areas of the City are those of mixed use and mixed buildings, including employment, residential, commercial and supporting uses and facilities. Corridors are identified as those areas that provide linkages between Centres and are accordingly well-suited to accommodate priority transit and a mix of uses that promote active transportation.

The subject property is designated 'Environmental Protection Area' and 'Arterial Commercial' in accordance with the City of Kingston Official Plan (see Figure 1). According to Section 3.10 of the Plan, 'Environmental Protection Areas' recognize lands that have inherent environmental sensitivity. These lands are to be maintained in their natural, undisturbed state and the permitted uses are limited to those related to open space, conservation or flood protection.

Section 3.10.2.1 notes that lands that are designated 'Environmental Protection Area' which are solely tied to riparian corridors as illustrated on Schedule 7 of the Plan, permitted uses on such lots include (Section 3.10.2.1(a)): the permitted land uses of another land use designation applicable to the lot. Therefore, the policies of Section 3.4.E: Arterial Commercial are applicable to the subject property.

The Arterial Commercial designation is a special purpose designation for a limited range of goods and services, such as hospitality uses, automotive uses, restaurants to serve the travelling public, or uses that require large sites on a major road to display specialized goods in an outdoor setting. Section 3.4.E.1 of the Plan details permitted uses to include a range of services that cater to the travelling public, uses that require large sites, or which require outdoor display such as vehicle sales lots or vehicle rental premises, hospitality uses and automotive uses such as gas bars and service stations. Limited convenience commercial goods and services may also be permitted with the size and type of use regulated in the zoning by-law, as well as offices uses permitted as an accessory use.

Section 3.4.E.3 of the Plan goes on to state: "The City contains a number of older strip plazas that have developed along arterial road that are major arteries into the City. These sites, designated Arterial Commercial, contain a mix of retail, office and service uses in addition to the uses currently permitted in the Arterial Commercial designation. The implementing zoning by-law for those sites may recognize the existing wider range of uses".

As Section 3.4.E.3 of the Plan recognizes, the older plazas that are located along major arterial roads have developed and varied in their uses over time. The existing plaza which was constructed in the late 1970s currently contains multiple commercial related uses which are subject to change through time. Although Section 3.4.E.1 states that office uses are permitted as accessory uses only, 'office uses' are not defined within the City's Official Plan.

The Official Plan defines Accessory Use to mean: 'a separate use, building or structure which is subordinate to, naturally, customarily and normally incidental to and exclusively devoted to the principal use, building or structure and is located on the same lot but not designed or intended for human habitation unless specifically permitted'.

The subject property does not contain an accessory building, rather a single building containing a total of seven commercial units of varied size (i.e.. plaza). Based on the built form of the existing structure, there is no possibility for the subject property to provide a clear principle use. Regulating the total gross floor area of office uses within the Arterial Commercial designation relies on the implementing Zoning By-law standards, which currently restrict the total gross floor area of office uses to 605 square metres. Increasing the total permitted office uses on-site to accommodate the gross floor area of the existing plaza is consistent with the general intent of the Arterial Commercial designation through Section 3.4.E.3 of the Official Plan.

2. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan.

Section 2.7 of the City of Kingston Official Plan contains policies which aim to ensure that development within the City does not create adverse effects on adjacent properties when uses are not properly located or buffered.

The policies of Section 2.7.1 and 2.7.2 of the Plan address Compatible Development and Land Use Change. Section 2.7.1 states: "Development and/or land use change must demonstrate that the resultant form, function and use of land are compatible with surrounding land uses". Section 2.7.2 states: "The demonstration of compatible development and land use change must consider the potential for adverse effects and matters that have the potential to negatively impact the character, planned function and/or ecological integrity of an area, and the health and safety of humans. Where there exists a potential for negative impacts, a land use compatibility study, focused specifically on the identified land use compatibility matters, will be required".

The owners are proposing to increase the maximum permitted gross floor area of office uses within the existing commercial plaza through this minor variance application.

Specifically, the existing site-specific zone permits a maximum of 605 square metres of office space while the proposal seeks to permit a maximum of 1,822 square metres of office space on the subject property. As offices are already permitted on the subject property, and currently exist, increasing the total gross floor area of office space on-site is not anticipated to adversely effect the adjacent properties. The proposal does not seek to change any external features of the subject property, therefore in our opinion a detailed review of the Land Use Compatibility Matters (Section 2.7.3) is not required.

3. The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility.

The subject property accommodates a plaza with seven commercial units and approximately 104 on-site parking spaces. The site also accommodates a rear access lane that supports loading and unloading areas for each commercial unit. Through this application, the owners are not proposing any external changes to the site. The scope of the application is limited to expanding the permitted uses within the existing structure.

4. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District.

Section 8 of the City of Kingston Official Plan contains policies with respect to Urban Design, emphasizing the value of quality architecture, pedestrian-friendly streetscapes and vibrant neighbourhoods. Through this application, the owners are not seeking any external changes to the building, rather expanding the uses permitted within the existing structure.

5. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable.

Neither the subject property nor any adjacent property is protected under the Ontario Heritage Act. The proposal does not seek to affect a protected view as identified on Schedule 9 of the City of Kingston Official Plan.

6. The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary.

The subject property is located within the urban boundary, through consultation with City and Utilities Kingston staff, it is the understanding of the owner that there is sufficient water and sewage services available to accommodate a potential change of use.

7. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law.

The owners are not proposing to change the built form of the existing development on-site through this application. The proposal is limited to amending one performance standard contained within the site-specific 'C2.383' zone. As our opinion concludes that the proposal complies with the 4 tests of Section 45(1) of the Planning Act, it therefore confirms the proposal may be addressed via minor variance.

8. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application.

It is anticipated through this application that conditions will be included as part of any Committee of Adjustment decision.

9. The degree to which such approval may set an undesirable precedent for the immediate area.

The subject property does not directly abut another property utilized for development. Abutting the subject property to the east is Parkway Avenue, to the south is Princess Street while the Little Cataraqui Creek abuts the parcel to the north and west. Beyond the adjacent public road allowances, a multi-unit residential development is located on the south side of Princess Street, while a commercial gas station is located on the east side of Parkway Avenue. It is our opinion that the subject property will not adversely affect the surrounding land uses nor will it set an undesirable precedent for the immediate area should this application be approved.

It is our opinion that the proposal meets the intent of the Official Plan, as the proposal will not result in any negative impacts to adjacent properties or to the surrounding neighbourhood.

The general intent and purpose of the zoning by-law are maintained

The subject property is located within a site-specific Arterial Commercial ‘C2.383’ zone in Zoning By-law Number 8499, as amended (see Figure 2).

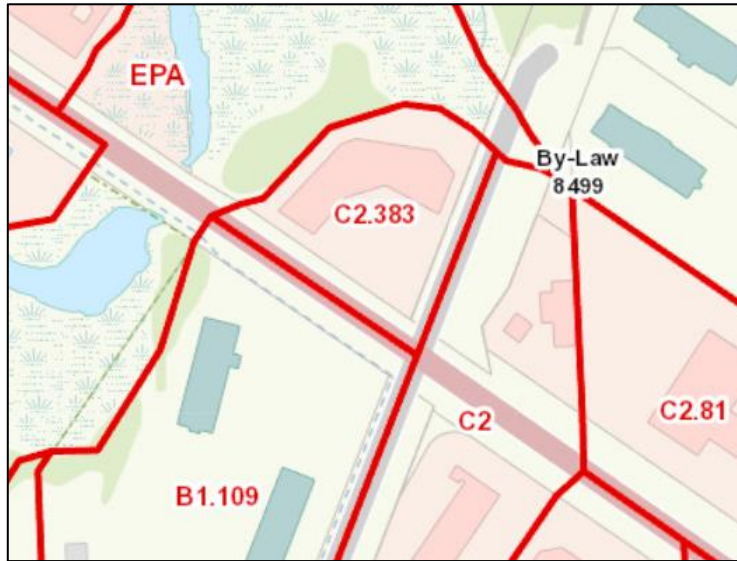


Fig. 2 – City of Kingston Zoning By-Law 8499.

The uses permitted within the ‘C2.383’ zone include: commercial school, retail stores, banks, bowling alleys, theatres, auditoriums, automobile service stations and motor sales rooms, drive-in restaurants, motels, electrical repair services, offices with a maximum size of 605 square metres per building, shopping centres, places of amusement and day care centres. The existing plaza with seven commercial units is considered a permitted use, however the occupancy of each commercial unit is reliant on the occupant(s) of the other commercial units.

The owners are seeking permission to amend the current 605 square metre cap of maximum office space permitted per building. Through this application, the owners are not seeking to alter the exterior of the existing building or facilitate any on-site modifications. The proposed variance will offer flexibility in future tenants and commercial unit occupants as well as limit confusion in the absence of defined ‘office’ terminology.

Variance:

Section	Required	Proposed	Relief requested
22.2(i) – maximum office size of 605sqm per building	605sqm	1822sqm	1217sqm

It is our opinion that the proposed minor variance related to maximum gross floor area of office per building maintains the general intent and purpose of the zoning by-law.

The variance is minor in nature

The variance is considered minor as the proposed office use is currently permitted on the subject property to a maximum of 605 square metres per building. As the site currently accommodates a plaza, the single building is limited to housing a total of 605 square metres of office floor area. This application seeks to amend the maximum permitted office uses on-site to ensure that flexibility exists in securing future tenants.

Zoning By-law Number 8499, as amended fails to define 'office'. Historically, inconsistent zoning by-law interpretations have resulted in frustration related to understanding what use constitutes an 'office' and which does not. 'Victorian Order of Nurses' and 'Creekside Dental' are current tenants which have previously received conflicting interpretations. As such, moving forward the owners are seeking to permit a maximum of 1,822 square metres of office uses on the subject property within the existing site-specific zone.

The proposal will result is a development that is consistent with the existing uses on the subject property. In our opinion, the variance will not alter the character of the site or adversely affect the adjacent properties.

The variance is desirable for the appropriate development or use of the land, building or structure

The proposed increase in total gross floor area of office space on the subject property will have negligible impact on adjacent properties. Further, the proposal will not visually change the sites appearance from either Princess Street or Parkway Avenue.

The proposal does not seek to change the scale, massing or built form of the existing development. The proposal is limited to providing variation in future tenants of the existing commercial plaza. In our opinion, the proposal is a desirable and appropriate use of land on the subject property.

Conclusion

In conclusion, the requested variance related to increasing the maximum gross floor area of office space permitted within the existing building maintains the general intent and purpose of both the City of Kingston Official Plan and Zoning By-law Number 8499, as amended. The proposal is desirable and appropriate development for the use of land, building or structure and the requested variance is minor in nature. Therefore, in our opinion, the proposed minor variance application meets all four tests under subsection 45(1) of the *Planning Act*, and represents good land use planning.

Sincerely,

ORIGINAL SIGNED BY JASON SANDS

Jason Sands, B.Sc. M.Pl. MCIP. RPP

1469 Princess Street

Application for Minor Variance – Supplementary Planning Justification

D13-006-2020

March 16, 2020

City Comment	Response
<p>The letter does not sufficiently address how the application complies with the official plan.</p>	<p>Please see original Planning Letter as technical response below.</p>
<p>I recommend utilizing policy 3.4.E.3 rather than the dismissal of a viable principal use as the justification. Policy 3.4.E.3 is mentioned on page 4 of the letter but does not clearly address how the proposal complies with this policy, and how 3.4.E.3 interacts with 3.4.E.1 in such a way to create overall compliance.</p>	<p><i>Section 3.4.E.3 of the Plan states: “The City contains a number of older strip plazas that have developed along arterial roads that are major arteries into the City. These sites, designated Arterial Commercial, contain a mix of retail, office and service uses in addition to the uses currently permitted in the Arterial Commercial designation. The implementing zoning by-law for those sites may recognize the existing wider range of uses”.</i></p> <p>Based on Policy 3.4.E.3 of the Plan, the City recognizes that multiple properties that are already developed with strip plazas and exist within the City; specifically along major streets identified as Arterial roads. Section 3.4.E.1 of the Plan details permitted uses to include: <i>a range of services that cater to the travelling public, uses that require large sites, or which require outdoor display such as vehicle sales lots or vehicle rental premises, hospitality uses and automotive uses such as gas bars and service stations. Limited convenience commercial goods and services may also be permitted with the size and type of use regulated in the zoning by-law, as well as offices uses permitted as an accessory use.</i></p> <p>All properties fronting Princess Street on both the north and south side between Parkway Avenue and Portsmouth Avenue are designated Arterial Commercial per the City of Kingston Official Plan. The existing developments include:</p> <p>North side of Princess Street: Gas bar (Esso), Automotive Dealership (Kingston Dodge), Fast Food restaurant (KFC) and Restaurant (former Aunt Lucy’s – Burning Grill Korean BBQ).</p> <p>South side of Princess Street: Comfort Inn hotel, Strip plaza containing Avis rental car, Investors Group, Loyola Community Learning Centre, Institutional Uses (Kingsway Christian Church) Budget rental car and a standalone Automotive (MyCar Kingston) dealership located at 1390 Princess Street.</p> <p>All uses within the surrounding area, between Parkway Avenue and Portsmouth Avenue have been considered as they relate to the policy direction provided in the Official Plan for properties along Arterial roads. Policy 3.4.E.3 recognizes a mix of retail,</p>

office and service uses, therefore when reviewing the locational context of the subject property; the area supports such policy vision as contained within the Plan. Should the subject property be permitted to accommodate 1,822 square metres of office uses within the existing strip plaza, as regulated by Zoning By-law Number 8499, as amended, the adjacent properties along the north side of Princess Street between Parkway Avenue and Portsmouth Avenue which fail to accommodate office uses ensure the area is consistent with the intent of the Official Plan.

Additionally, the subject property was constructed in approximately 1986, which was prior to the adoption of the current City of Kingston Official Plan (2010 and most recently updated in 2017). Section 3.4.E.3 of the Official Plan recognizes that there are existing older strip plazas which were constructed prior its adoption, and which contain uses such as retail and office, which would clearly not meet the policy direction and vision of the Arterial Commercial designation which now applies.

The overarching goal of the Arterial Designation is “To provide easily-accessed and visible locations to serve the needs of travelers and to accommodate the distinct needs of commercial uses that require outdoor display that do not fit well within other commercial designations”. However, due to the built form and configuration of the existing plaza, it is not suited to accommodate large outdoor display areas or uses such as vehicles sales or a hospitality uses.

The requested minor variance to allow additional office uses on the subject property will provide the owner with flexibility in accommodating tenants which would be defined as an ‘office use’ within the Zoning By-law. Section 3.4.E.3 of the Official Plan states that the Zoning By-law may recognize an existing wider range of uses on current plazas, which is directly applicable to the subject property. The proposed minor variance will not however, restrict future retail tenants if and when there is demand for this use or other service / hospitality uses which are currently permitted in accordance with Zoning By-law on the subject property.

It is our opinion that the requested minor variance meets the intent of the City of Kingston Official Plan.